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which result in excusing from jury duty many of those best qualified to act in the increasing complexities of litigation, when a higher standard of intelligence among the jurors is needed—all these, though defects, are regarded not as defects in the system, but in its administration, and, as such, reasons not for discarding the jury system, but for cleansing it of these growths upon it. One judge, or a number of judges, would not, it is suggested, be more satisfactory in deciding issues of fact than the jury of twelve; and to the unique power given our judiciary to declare legislative acts unconstitutional, the jury power, born of the sovereignty of the people, should not be added. *The Jury System*, by William H. Holt, 67 Alb. L. J. 298. Cf. *The Administration of the Jury System*, by Henry B. Brown, 17 Green Bag 623.

GOVERNMENTAL REGULATION OF PRICES.—A writer in the Green Bag touches upon a subject often discussed but always of interest and importance. *Governmental Regulation of Prices*, by Eugene A. Gilmore, 17 Green Bag 627 (Nov., 1905). The mediæval method of bringing into effect just prices, wages, and hours, says Mr. Gilmore, was by fixing them through the consultation of experts, whose estimates were enforced by positive law. In England the cost of the necessities of life was made subject to regulation as early as the fourteenth century, in the days of the Black Death. Subsequently such matters as the binding of books and the sale of beer barrels and of long bows came under supervision. In the New World the power of government to legislate upon prices and wages was recognized by comprehensive statutes passed in Massachusetts (1777) and in New York (1778). Neither in England nor in America, however, were laws of this character successfully enforced.

Modern public opinion, viewing general interference with private business as a deprivation of liberty and property prohibited by the Constitution, relies upon the regulating force of free competition. Yet the efficacy of the police power remains unimpaired by the Fourteenth Amendment, and under it the case of *Munn v. Illinois* (94 U. S. 113) and decisions following enunciated the right of the state to regulate prices and rates in all businesses "affected with a public interest." Interpreting this as sanctioning interference whenever "essential or desirable for the public good," Mr. Gilmore concludes, "if dominant public opinion should favor a return to the paternalistic conditions of mediæval England, or to some modified and less extensive control of private business, such as reasonable restrictions on the hours of labor, and prohibitions on the manipulation of prices, . . . the Constitution should not be construed to check the working out of such opinion." Mr. Gilmore's rule of loose constitutional construction is that toward which the dissenting minority in the Warehouse Cases believed the Supreme Court to be tending. See *Munn v. Illinois*, 94 U. S. 113, 136; *Budd v. New York*, 143 U. S. 517, 548; *Brass v. North Dakota*, 153 U. S. 391, 405. It has, however, not yet met with the approval of constitutional lawyers, who seem to require a rather intimate connection between the business which it is sought to subject to legislative interference and some one of the very general objects sought by the police power, namely, public safety, health, morals, or welfare. See COOLEY, CONST. LIMS. 870 *et seq.* The authorities probably warrant no more definite statement than that rates are subject to regulation in those businesses possessed of the elements of a legal or a virtual monopoly. See *The Law of the Public Callings as a Solution of the Trust Problem*, by Bruce Wyman, 17 HARV. L. REV. 156, 217. Certainly the courts show little tendency to set aside, under the excuse of an unlimited police power, all constitutional safeguards against interference with private enterprise, and it is probable that any new business will be made subject to regulation only so far as such regulation becomes essential by reason of peculiar circumstances attending it. See FREUND, POL. POWER, § 378; *Public Service Company Rates and the Fourteenth Amendment*, by N. Matthews, Jr., and W. G. Thompson, 15 HARV. L. REV. 249; *Opinions of the Justices to the House of Representatives*, 55 Mass. 598; 182 *ibid.* 605.

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